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Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15
STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00
OMB-01 /107 W
----------021531Z 022768 /41
P R 021443Z FEB 77
FM USMISSION GENEVA
TO SECSTATE ASHDC PRIORITY 4911
INFO AMEMBASSY OTTAWA
USMISSION EC BRUSSELS
AMCONSUL HONG KONG

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PASS STR FOR MIKE SMITH

E.O. 11652: N/A
TAGS: GATT, ETRD
SUBJECT: TEXTILES: TSB CONSIDERS HONG KONG COMPLAINT AGAINST CANADA

REF: GENEVA 0681

1. SUMMARY: TSB CONCLUDED THREE-DAY HEARING SUBJECT COMPLAINT EVENING JAN 27. DISCUSSION WAS COMPLICATED BY NARROS SCOPE HK CASE AND ATTENDANT CONFUSION IN ATTACKING BASIC AND UNDERLYING ISSUE OF CONSISTENCY OF ART XIX ACTIONS WITH LETTER AND SPIRIT OF MFA. INITIAL COMPLICATION WAS CHALLENGE BY CANADA DEL (STRONGLY SUPPORTED BY EC AND NORDIC REPS) TSB JURISDICTION AND COMPETENCE TO REVIEW ART XIX ACTIONS. CONSIDERATION OF CASE PROCEEDED ONLY AFTER EC AND NORDIC RESERVATIONS ON TSB HEARING CASE WERE NOTED. IN VIEW OF ADAMANT OPPOSITION BY EC AND NORDIC REPS IN SUBSEQUENT DEBATE, NO CONSENSUS ON BASIC
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QUESTION WAS POSSIBLE. AS RESULT, TSB, NOTING CONSULTATION PROVISION IN CANADA-UK BILATERALS, REACHED CONSENSUS ONLY ON RECOMMENDATION CONSULTATIONS BETWEEN THE PARTIES WITH REPORT OUTCOME TO BE MADE TO TSB IN THIRTY DAYS. ONLY AFTER FIRMS DEMANDS BY U.S., JAPAN, MALAYSIA, PAKISTAN, COLOMBIA AND HONG KONG REPS HAD OVERCOME OPPOSITION OF EC AND NORDIC REPS, COULD TSB AGREE ON A

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"MOST FELT-OTHERS FELT" TEXT TO INCLUDE IN REPORT OF SESSION (SEE PARA 2 REFTEL).

2. HONG KONG DEL, IN OPENING HEARING, CHARGED: A) THAT CANADA HAD UNILATERALLY ABROGATED TWO BILATERAL AGREEMENTS WITH HKG; B) HAD UNILATERALLY PLACED WITHOUT PRIOR CONSULTATION PRODUCTS COVERED IN THESE BILATERAL AGREEMENTS UNDER GATT ART XIX RESTRICTIONS; C) THAT THIS ACTION HAD CAUSED DISRUPTION IN HK TRADE; AND, D) FINALLY THAT THE ART XIX ACTION WAS AN "ADDITIONAL TRADE MEASURE" WITHIN THE MEANING OF PARA 1 MFA ART 9 AND "HAD THE EFFECT OF NULLIFYING THE OBJECTIVES OF THE ARRANGEMENT." HONG KONG DEL REQUESTED TSB RECOMMEND THAT CANADA REINSTATE THE BILATERAL AGREEMENTS.

3. CANADA DEL OPENED WITH CHALLENGE TO TSB AUTHORITY TO CONSIDER CASE. TOOK POSITION THAT MFA ART 1:6 GUARANTEED TO ALL MFA PARTICIPANTS RIGHTS TO TAKE ACTION UNDER GATT ART XIX; THAT, SINCE SUCH ACTIONS WERE CLEARLY "LEGAL" UNDER MFA, THEY COULD NOT BE CONSIDERED AS "ADDITIONAL TRADE MEASURES" WITHIN MEANING OF MFA ART 9:1, AND, THEREFORE, THAT THEY COULD NOT HAVE THE EFFECT OF NULLIFYING THE OBJECTIVES OF THE ARRANGEMENT; AND, FINALLY, THAT TSB REVIEW OF ANY SUCH ACTION WAS "IMPROPER."

4. SUBSEQUENTLY, EC AND NORDIC REPS STRONGLY SUPPORTED CANADIAN POSITION. ALL OTHER MEMBERS OF TSB, INCLUDING LIMITED OFFICIAL USE

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U.S. REP, TOOK POSITION THAT, EVEN IN THE NARROW SCOPE OF THE HONG KONG COMPLAINT AND, LEAVING ASIDE THE QUESTION OF "LEGALITY" OF THE ACTION WITHIN THE MFA PURVIEW, CANADA'S MASSIVE RESORT TO ART XIX DID, FROM ANY POINT OF VIEW, CONSTITUTE AN "ADDITIONAL TRADE MEASURE," THE "EFFECTS" OF WHICH (BE IT LEGAL OR ILLEGAL), WERE PROPER SUBJECTS FOR TSB REVIEW IF MFA ART 9 WAS TO HAVE ANY MEANING WHATSOEVER.

5. WHEN IT BECAME CLEAR THAT EC AND NORDIC REPS WERE FULLY PREPARED TO BLOCK CONSENSUS ON ANY RECOMMENDATION INVOLVING ANY CRITICISM OF CANADIAN ACTION, U.S. REP, FULLY SUPPORTED BY JAPAN REP, INSISTED ON INCLUSION IN THE REPORT OF THE SESSION OF THE OPPOSING VIEWS ON A "MOST FELT-OTHERS FELT" BASIS. IN FACE EC REPS STRONG OPPOSITION TO THIS PROCEDURE, U.S. REP INFORMED BODY THAT HE COULD NOT ACCEPT ANY REPORT WHICH DID NOT REFLECT THE DIVERGENT VIEWS WHICH HAD EMERGED IN THE DEBATE. AFTER OTHER REPS HAD TAKEN SIMILARLY STRONG

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POSITION, CHAIRMAN RULED THAT THIS PROCEDURE WOULD BE FOLLOWED.

6. POSITIONS TAKEN BY EC REP THROUGHOUT WERE COMPLETELY INCONSISTENT WITH UNDERTAKINGS BY MEYNELL IN COURSE U.S.-EC-JAPAN TRILATERAL CONSULTATIONS JAN 19. IN U.S. REP'S VIEW, THIS YET AGAIN DEMONSTRATES THE FUTILITY OF EXPECTING COOPERATITXAFROM EC TEXTILE OFFICIALS. KLARIC EC TSB REP WAYNCCOMPANIED TO THIS SESSION BY ASSORTED BRITISH AND FRENCH "ADVISERS" AND SUBSEQNENTLY TOLD U.S. REP AFTER SESSION THAT PRESENCE THESE ADVISERS HAD "MADE NECESSARY HIS DEFENSE CANADIAN ACTION."

7. AS INDICATED IN LAST SENTENCE TEXT QUOTED PARA 2 REFTEL, WE HAVE NOT HEARD THE LAST OF THE GATT ART XIX - MFA CONFLICT. JUDGING BY THE VERY HARD LINE TAKEN BY PAKISTAN, MALAYSIA AND HKG TSB REPS IN THIS DEBATE,
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THIS WILL UNDOUBTEDLY BE ANOTHER THORNY ISSUE TO RESOLVE IN COURSE MFA EXTENSION TALKS. CATTO

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Handling Restrictions: n/a
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Previous Handling Restrictions: n/a
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Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
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Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3434090
Secure: OPEN
Status: NATIVE
Subject: TEXTILES: TSB CONSIDERS HONG KONG COMPLAINT AGAINST CANADA
TAGS: ETRD, EPAP, CA, HK, GATT
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/ee726dcd-c288-dd11-92da-001cc4696bcc
Review Markings:
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